

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JEREMIAH JEROME GRIFFIN,

Plaintiff,

-against-

CITY OF NEW YORK, ET AL.,

Defendants.

22-CV-8521 (VSB)

ORDER OF SERVICE

VERNON S. BRODERICK, United States District Judge:

Plaintiff, who is currently detained in the Anna M. Kross Center on Rikers Island, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants violated his federal constitutional rights. By order dated October 10, 2022, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.¹

By order dated November 14, 2022, the Honorable Laura Taylor Swain, in her capacity as Chief Judge, directed Plaintiff to file an amended complaint. (ECF 5.) On November 21, 2022, the court received from Plaintiff an amended complaint, which was substantively similar to the original complaint and which was dated October 16, 2022, that is, before Chief Judge Swain issued the order to amend on November 14, 2022. On January 18, 2023, the court received a second amended complaint. (ECF 10.) Named as Defendants in the second amended complaint are the City of New York, Correction Officers Fatorma, Yakuba, Benoit Jones, and Capehart, and a John Doe correction officer. The second amended complaint is the operative pleading.

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

DISCUSSION

A. Waiver of Service

The Clerk of Court is directed to notify the New York City Department of Correction (“DOC”) and the New York City Law Department of this order. The Court requests that the City of New York and Correction Officers Fatorma (Shield # 12628 or 1282), Yakuba (Shield # 8152), Benoit Jones, and Capehart waive service of summons.

B. *Valentin* order

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the complaint, Plaintiff supplies sufficient information to permit the DOC to identify the correction officer who was working at the Eric M. Taylor Center (“EMTC”) on June 10, 2022, and was accompanying Plaintiff to Housing Area 1 Main when Plaintiff was allegedly punched by another detainee. It is therefore ordered that the New York City Law Department, which is the attorney for and agent of the DOC, must ascertain the identity and badge number of the John Doe officer whom Plaintiff seeks to sue here and the address where the defendant may be served.² The Law Department must provide this information to Plaintiff and the Court within 60 days of the date of this order.

Within 30 days of receiving this information, Plaintiff must file a third amended complaint naming the John Doe defendant. The third amended complaint will replace, not supplement, the original complaint. A third amended complaint form that Plaintiff should

² If the Doe defendant is a current or former DOC employee or official, the Law Department should note in the response to this order that an electronic request for a waiver of service can be made under the e-service agreement for cases involving DOC defendants, rather than by personal service at a DOC facility. If the Doe defendant is not a current or former DOC employee or official, but otherwise works or worked at a DOC facility, the Law Department must provide a residential address where the individual may be served.

complete is attached to this order. Once Plaintiff has filed a third amended complaint, the Court will screen the third amended complaint and, if necessary, issue an order asking the newly identified defendant to waive service.

C. Local Civil Rule 33.2

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court's website under "Forms" and are titled ["Plaintiff's Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents."](#) Within 120 days of the date of this order, Defendants must serve responses to these standard discovery requests. In their responses, Defendants must quote each request verbatim.³

CONCLUSION

The Clerk of Court is directed to electronically notify the New York City Department of Correction and the New York City Law Department of this order. The Court requests that Defendants City of New York and Correction Officers Fatorma (Shield # 12628 or 1282), Yakuba (Shield # 8152), Benoit Jones, and Capehart waive service of summons.

The Clerk of Court is directed to mail a copy of this order and the complaint to the New York City Law Department at: 100 Church Street, New York, New York 10007.

A Third Amended Complaint form is attached to this order.

Local Civil Rule 33.2 applies to this action.

³ If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the Pro Se Intake Unit.

The Clerk of Court is directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: 2/17/23
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick", written over a horizontal line.

VERNON S. BRODERICK
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

____ Civ. _____ ()

**THIRD
AMENDED
COMPLAINT__**

Jury Trial: ☐ Yes ☐ No
(check one)

I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff	Name
	Street Address
	County, City
	State & Zip Code
	Telephone Number

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name
 Street Address
 County, City
 State & Zip Code
 Telephone Number

Defendant No. 2 Name
 Street Address
 County, City
 State & Zip Code
 Telephone Number

Defendant No. 3 Name
 Street Address
 County, City
 State & Zip Code
 Telephone Number

Defendant No. 4 Name
 Street Address
 County, City
 State & Zip Code
 Telephone Number

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? *(check all that apply)*

☐ Federal Questions

☐ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue?

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship

Defendant(s) state(s) of citizenship

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur?

B. What date and approximate time did the events giving rise to your claim(s) occur?

C. Facts:

What
happened
to you?

Who did
what?

Was anyone
else
involved?

Who else
saw what
happened?

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

